

Message

From: Calvino.Maria@epa.gov [Calvino.Maria@epa.gov]
Sent: 10/4/2019 12:27:47 AM
To: Glenn, William [Glenn.William@epa.gov]
Subject: Fwd: New KQED Request

FYI

Begin forwarded message:

From: "Abboud, Michael" <abboud.michael@epa.gov>
Date: October 3, 2019 at 4:59:45 PM PDT
To: Peter Jon Shuler <PShuler@kqed.org>
Cc: "Labbe, Ken" <Labbe.Ken@epa.gov>, "Jones, Enesta" <Jones.Enesta@epa.gov>, Press <Press@epa.gov>, "Calvino, Maria Soledad" <Calvino.Maria@epa.gov>
Subject: Re: New KQED Request

"EPA's actions are not political. Carrying out our mission of protecting the environment and human health is not a political issue and we will continue to work toward fulfilling that mission."

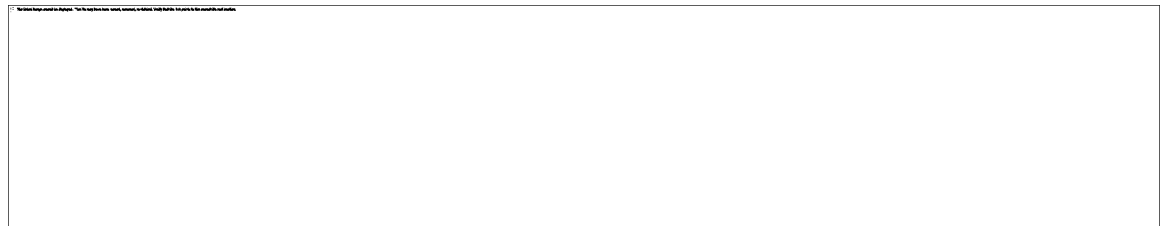
Sent from my iPhone

On Oct 3, 2019, at 7:55 PM, Peter Jon Shuler <PShuler@kqed.org> wrote:

Resending this more generally.... WH referred me back to you....

Ken,
Just got your response....now I need another, to this request for IG probe. Specifically, are the EPA's actions politically motivated as alleged here? ASAP.
Thanks,
Peter

Peter Jon Shuler
Reporter
KQED News
mobile: Ex. 6 Personal Privacy (PP)
pshuler@kqed.org
[Facebook.com/KQEDnews](https://www.facebook.com/KQEDnews)
[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)



For Immediate Release
October 3, 2019

Contact: Adam Russell (Feinstein), 202-224-
Meaghan Lynch (Harris), 202-228-

Feinstein, Harris to Inspector General: Investigate White House Role in EPA Attacks on California

Washington—Senators Dianne Feinstein and Kamala D. Harris (both D-Calif.) today called on the Environmental Protection Agency’s inspector general to investigate whether the White House pressured the agency to abuse its law enforcement authority to single out California and the city of San Francisco.

Last week, EPA Administrator Wheeler sent a letter to Governor Newsom alleging state water quality violations that contradict the agency’s own findings. The letter was sent after President Trump inaccurately claimed that waste and needles from San Francisco’s homeless were flowing into the ocean from storm sewers and the city would soon be given a notice of violation. On Wednesday, the agency issued a formal notice of violation to San Francisco.

“We ask you to investigate why EPA abruptly reversed course in Administrator Wheeler’s letter and alleged water quality violations that are contradicted by the agency’s own reasoned findings in recent permit approvals for San Francisco,” the senators wrote.

The senators also asked for an investigation into **“Whether there was any communication between EPA personnel and the White House on the letter, or a concerted effort to bring actions against California.”**

Full text of the letter follows:

October 3, 2019

The Honorable Charles Sheehan
Acting Inspector General
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Inspector General Sheehan,

We write to bring to your attention EPA Administrator Wheeler’s September 26 letter to Governor Newsom alleging water quality violations by California. Prior to the September 26 letter, EPA had been working closely with California on these issues, and had expressed support for the September 11, 2019 permit issued to San Francisco’s Oceanside treatment plant by the Regional Water Quality Board. (See attached San Francisco Water Power and Sewer October 1 letter to EPA Administrator Wheeler at page 3.) We ask you to investigate why EPA abruptly reversed course in Administrator Wheeler’s letter and alleged water quality violations that are contradicted by the agency’s own reasoned findings in recent permit approvals for San Francisco. (See Attachment 1 for allegations in the September 26 letter contradicted by EPA’s own findings.)

EPA’s Clean Water Act enforcement is traditionally characterized by close coordination with the States and careful negotiation with state and local authorities to grant or deny permits for discharge plans for specific contaminants like bacteria. (See Attachment 2 on EPA Guidance for Water Quality Enforcement.) In contrast, based on San Francisco’s conversations with staff at EPA Region 9, the EPA regional staff apparently did not have advance notice or involvement in the September 26 letter from Administrator Wheeler to Governor Newsom.

Administrator Wheeler's letter was sent just a week after President Trump's comments that wastewater from the homeless, including used needles, were flowing into the ocean from San Francisco's storm sewers. Reportedly, the President stated that "we're going to be giving San Francisco, they're in total violation, we're going to be giving them a notice very soon."

We ask you to investigate:

- Whether EPA consulted with any of the staff at EPA Region 9 who were familiar with the agency's recent permit approvals for San Francisco's discharges in EPA's evaluation of any allegation of non-compliance with the Clean Water Act;
- Whether there was any communication between EPA personnel and the White House on the letter, or a concerted effort to bring actions against California; and
- Whether any other states have water quality issues similar to those described in the letter, but are not facing any similar enforcement action by EPA. As stated in EPA's Interim Guidance to Strengthen Performance in the NPDES Program (June 22, 2010), the agency's goal is "to establish a minimum level of national consistency by taking actions across the country so that no one state is singled out."

We thank you for considering this request and helping to ensure that EPA's important task of enforcing our nation's water quality laws is properly conducted.

Sincerely,

Dianne Feinstein
United States Senator

Kamala D. Harris
United States Senator

###

From: Labbe, Ken <Labbe.Ken@epa.gov>
Sent: Thursday, October 3, 2019 12:31 PM
To: Peter Jon Shuler <PShuler@KQED.org>; Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: RE: KQED Request

Hello Peter,

A note of receipt for your inquiry. I'll work on this for you.

Kenneth T. Labbe
United States Environmental Protection Agency
Office of Public Affairs
1200 Pennsylvania Avenue, NW

Washington, D.C. 20460
Office: 202-564-1486
Cell: 202-740-3770

From: Peter Jon Shuler <PShuler@KQED.org>
Sent: Thursday, October 03, 2019 3:28 PM
To: Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: RE: KQED Request

Good afternoon,

Now that the Notice of Violation to San Francisco has gone, what are the next steps in the process? How does this play out?

Please let me know today.

Thank you,
Peter

Peter Jon Shuler
Reporter
[KQED News](#)
mobile Ex. 6 Personal Privacy (PP)
pshuler@kqed.org
[Facebook.com/KQEDnews](https://www.facebook.com/KQEDnews)
[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)

From: Jones, Enesta <Jones.Enesta@epa.gov>
Sent: Thursday, September 19, 2019 11:25 AM
To: Peter Jon Shuler <PShuler@KQED.org>
Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: Fwd: KQED Request

Hi Peter,

Please see our response below.

“EPA does not comment on potential enforcement actions.” – EPA spokesperson

From: "Calvino, Maria Soledad" <Calvino.Maria@epa.gov>
Date: September 19, 2019 at 2:10:24 PM EDT
To: Peter Jon Shuler <PShuler@KQED.org>
Cc: Press <Press@epa.gov>
Subject: RE: KQED Request

Hi Peter,
Yes, I'm Cc'ing our HQ office here on this email. They will reply to your request.

Thank you,

Soledad Calvino
Press Officer | Office of Public Affairs
U.S. Environmental Protection Agency | Region 9
calvino.maria@epa.gov
Office 415.972.3512 | Mobile Ex. 6 Personal Privacy (PP)

From: Peter Jon Shuler <PShuler@KQED.org>
Sent: Thursday, September 19, 2019 11:04 AM
To: Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: KQED Request

Hi Soledad,

I am trying to arrange an interview or get a statement regarding President Trump's remarks that the EPA will be "putting out a notice" of violations in San Francisco related to the city's homeless problem. He said that a tremendous amount of waste, including needles, goes through storm drains into the ocean:

<https://www.sfchronicle.com/bayarea/article/Trump-threatens-to-cite-San-Francisco-says-city-14451275.php>

<https://www.nytimes.com/2019/09/18/us/politics/trump-san-francisco-homeless.html?action=click&module=Top%20Stories&pgtype=Homepage>

I'm not looking for a typical reaction story, but trying to dig into the facts of the matter. Is there any evidence of needles and other hazardous waste flowing into the Bay and Ocean to back up his statements? If the EPA has evidence or data to back this up, that would be significant news and we would be happy to report it. I believe it's only ethically appropriate to give the EPA an opportunity to provide substance to the President's comments.

But I am interested in reporting facts, not opinions.

Can you help?

Is there someone at the main EPA press office I should be reaching out to?

Please let me know.

Thanks,
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Peter Jon Shuler
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[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)

The content image001.jpg of type has been blocked.

Message

From: Calvino, Maria Soledad [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=55D174C8F17E4B979B51E3377E521037-CALVINO, MA]
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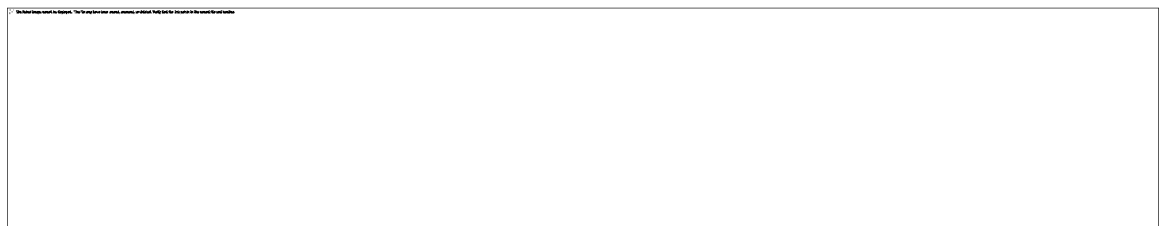
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October 3, 2019

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“We ask you to investigate why EPA abruptly reversed course in Administrator Wheeler’s letter and alleged water quality violations that are contradicted by the agency’s own reasoned findings in recent permit approvals for San Francisco,” the senators wrote.

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Full text of the letter follows:

October 3, 2019

The Honorable Charles Sheehan
Acting Inspector General
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Inspector General Sheehan,

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We thank you for considering this request and helping to ensure that EPA's important task of enforcing our nation's water quality laws is properly conducted.

Sincerely,

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Office of Public Affairs
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Office: 202-564-1486

Cell: Ex. 6 Personal Privacy (PP)

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Thank you,
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Peter Jon Shuler

Reporter

[KQED News](#)

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pshuler@kqed.org

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Cc: Press <Press@epa.gov>

Subject: RE: KQED Request

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Press Officer | Office of Public Affairs
U.S. Environmental Protection Agency | Region 9
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<https://www.sfchronicle.com/bayarea/article/Trump-threatens-to-cite-San-Francisco-says-city-14451275.php>

<https://www.nytimes.com/2019/09/18/us/politics/trump-san-francisco-homeless.html?action=click&module=Top%20Stories&pgtype=Homepage>

I'm not looking for a typical reaction story, but trying to dig into the facts of the matter. Is there any evidence of needles and other hazardous waste flowing into the Bay and Ocean to back up his statements? If the EPA has evidence or data to back this up, that would be significant news and we would be happy to report it. I believe it's only ethically appropriate to give the EPA an opportunity to provide substance to the President's comments.

But I am interested in reporting facts, not opinions.

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[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)

The content image001.jpg of type has been blocked.

Message

Sent: 9/6/2019 12:01:54 AM
To: Benevento, Douglas [benevento.douglas@epa.gov]
CC: Matthew Leopold (Leopold.Matt@epa.gov) [Leopold.Matt@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Draft California Letter
Attachments: California Letter - Revised (002).docx

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

Hi, Doug.

Attached is a draft letter to California identifying deficiencies in the State's CWA and SDWA programs. In assembling the letter, I worked from the draft letter that Lee provided to me as well as the background materials you sent. Matt has reviewed the letter and his comments are reflected in this draft. I defer to you as to who else should review, although I

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Let me know if you have any questions or need anything else. Thank you.

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 9/5/2019 11:40:43 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: RE: Draft California letter
Attachments: California Letter - Revised (002).docx

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

See attached edits.

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Thursday, September 5, 2019 3:39 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: Draft California letter

Matt, in case you haven't started reviewing yet, attached is a revised version of the draft letter. I've made some changes

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Wednesday, September 4, 2019 9:06 PM
To: Matthew Leopold (Leopold.Matt@epa.gov) <Leopold.Matt@epa.gov>
Subject: Draft California letter

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

Matt: Attached is a draft letter to California regarding certain CWA, SDWA, and CAA issues. This draft refers to factual and technical information provided to me by Doug from OECA, OW, and OAR—I have not independently verified the accuracy of this information. Please let me know if you have comments or suggestions. If you are okay with the approach, I plan to circulate to Doug as well as OECA, OW, and OAR for review. Doug informed me that he intends to provide a draft to the Administrator before Monday. Happy to discuss tomorrow.

Best,

David

David Fotouhi

Principal Deputy General Counsel

Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Willey, Katharine [willey.katharine@epa.gov]
Sent: 9/25/2019 10:31:44 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: Re: manana

Sounds good.

On Sep 25, 2019, at 6:24 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

No, but I'm aware of this generally. The talking points below track the last version of the letter that I reviewed.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Wednesday, September 25, 2019 6:22 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Fwd: manana

Have you seen this?

Begin forwarded message:

From: "Voyles, Travis" <Voyles.Travis@epa.gov>
Date: September 25, 2019 at 6:18:51 PM EDT
To: "Willey, Katharine" <willey.katharine@epa.gov>
Subject: FW: manana

Travis Voyles
(202) 564-6399

From: Block, Molly <block.molly@epa.gov>
Sent: Wednesday, September 25, 2019 5:17 PM
To: Braid, Duncan <braid.duncan@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Carter, Brittany S. <carter.brittanys@epa.gov>; Edwards, John (Holt) <edwards.john@epa.gov>; English, Katherine <english.katherine@epa.gov>; Frye, Thomas <Frye.Thomas@epa.gov>; Kolb, John (JohnMark) <kolb.john@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Pic, Jordan <pic.jordan@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Struhar,

Kirby <struhar.kirby@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>

Subject: manana

This could be changing, but here's what I know:

Run of Show

7:00 am: X sends letter to Gov. Newsom
8:00 am: Washington Post story goes live online
10:00 am: Andrea Woods sends around list of press RSVPs
10:15 am: Molly logs on to leaderview and briefs the operator
10:25 am: Andrea Woods sends email call RSVPs (on BCC) with letter (attached)
10:30 am: Web goes live (Nancy)
10:30 am: Press release goes out (Andrea Woods)
10:30 am: Molly opens the press call (script below)
10:32 – 10:36 am: AA Bodine opening remarks on letter (draft language below)
10:06 – 10:25 am: Q&A from press
10:25 am: Molly closing
11:00 am: Hard stop

Call Information

Conference ID: Ex. 6 Personal Privacy (PP)

Leader call-in number: Ex. 6 Personal Privacy (PP)

Press call-in number: Ex. 6 Personal Privacy (PP)

Script

Molly: Thank you all for joining us this morning for a background press briefing. I will soon turn the call over to EPA's Office of Enforcement and Compliance Assurance Assistant Administrator Susan Bodine. This is a background briefing, as such you may attribute information you learn on this call to an EPA senior official. You are free to report on this information in real time. After Assistant Administrator Bodine's opening remarks we will open up the call to questions from the press. Thanks again for joining us and I will now turn the call over to Assistant Administrator Bodine.

Susan: Thank you all for joining us. This morning, EPA Administrator Andrew Wheeler sent an oversight letter to Governor Gavin Newsom raising several issues with the state's failure to protect Californians from degraded water, outlining deficiencies that have led to significant public health concerns in California and the steps the state must take to address them. In order to ensure that appropriate steps are being taken to protect the 40 million Americans living in California, we are asking for a remedial plan from the state detailing the steps it's taking to address the multitude of issues raised in our letter.

Based upon data and reports, we are concerned that California's implementation of federal environmental laws is failing to meet its obligations required under delegated federal programs. The cost of this failure will be paid by those Californians exposed to unhealthy air and degraded water.

EPA is aware of numerous recent health-based exceedances under the Safe Drinking Water Act: in just the most-recent reporting quarter of 2019, California had 202 Community Water Systems with 665 health-based exceedances that put the drinking water of nearly 800,000 residents at risk. These exceedances include:

- 67 systems with 194 serious health-based exceedances of arsenic levels, impacting over 101,000 residents.

- 210 lead action level exceedances in just the most recent 3-year interval at 168 PWSs, impacting over 10,000 residents.
- 2 systems with serious Ground Water Rule compliance issues, impacting over 250,000 residents.
- 44 systems with 154 exceedances of the Stage 1 and 2 disinfection byproduct regulations, impacting almost 255,000 residents.
- 25 systems with 69 exceedances of radiological standards, impacting almost 12,000 residents.

These exceedances call into question the State's ability to protect the public and administer its SDWA programs in a manner consistent with federal requirements.

Under the Clean Water Act, in this past quarter, we identified 23 significant instances of discharges into waters of the United States in exceedance of permit limits. To name a few, the City of Los Angeles exceeded its permit limit for Indeno[1,2,3-cd]pyrene (a contaminant which is reasonably anticipated to be a human carcinogen) by 442 percent; the University of Southern California exceeded its permit limit for copper (a metal which can adversely affect human health and the health of aquatic life) by 420 percent; and the Sanitary District Number 5 of Marin County exceeded its permit limit for total cyanide by 5,194 percent. These are serious matters that warrant a strong review by California.

We are also aware of the growing homelessness crisis developing in major California cities, including Los Angeles and San Francisco, and the impact of this crisis on the environment. Press reports indicate that "piles of human feces" on sidewalks and streets in these cities are becoming all too common. EPA is concerned about the potential water quality impacts from pathogens and other contaminants from untreated human waste entering nearby waters.

California is responsible for implementing appropriate municipal storm water management and waste treatment requirements as part of its assumed federal program, but the state is failing to properly implement these programs. The City of San Francisco's years-long practice—allowed by CalEPA—of routinely discharging over one billion gallons of combined sewage and stormwater into San Francisco Bay and the Pacific Ocean on an annual basis. This has allowed raw sewage to back up into homes and businesses.

The U.S. EPA stands ready to assist California and CalEPA to protect the health and environment of Californians.

It is time for the State to act decisively under its authorities to address the problems identified in the letter. For each of the delegated or assumed programs discussed, EPA Administrator Wheeler is requesting a written response within 30 days outlining in detail how California intends to address the concerns and violations identified.

I will now open up the floor to questions.

Molly: Thanks Assistant Administrator Bodine. Now our operator NAME will instruct interested members of the press how to ask a question. When your line is open, please state your name and affiliation. Thanks.

Operator: If you're interested in asking a question please press star 1 at this time...

Q&A

Molly: That's all the time we have for today's call. As I said earlier the information on this call is for background purposes and you are free to report on this now. Thanks for joining us this morning. If you have any follow up questions/questions that weren't answered, please email press@epa.gov and we will get back to you. Have a wonderful day. Goodbye.

Message

From: Labbe, Ken [Labbe.Ken@epa.gov]
Sent: 10/3/2019 10:50:32 PM
To: Peter Jon Shuler [PShuler@kqed.org]
CC: Press [Press@epa.gov]
Subject: Re: KQED Request

Hi Peter:

“EPA does not comment on ongoing or potential enforcement actions.” - **EPA spokesperson**

Sent from my iPhone

On Oct 3, 2019, at 3:54 PM, Peter Jon Shuler <PShuler@kqed.org> wrote:

Thanks Ken!
Peter

Peter Jon Shuler
Reporter
KQED News
mobile: Ex. 6 Personal Privacy (PP)
pshuler@kqed.org
[Facebook.com/KQEDnews](https://www.facebook.com/KQEDnews)
[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)

From: Labbe, Ken <Labbe.Ken@epa.gov>
Sent: Thursday, October 3, 2019 12:31 PM
To: Peter Jon Shuler <PShuler@KQED.org>; Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: RE: KQED Request

Hello Peter,

A note of receipt for your inquiry. I'll work on this for you.

Kenneth T. Labbe
United States Environmental Protection Agency
Office of Public Affairs
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460
Office: 202-564-1486
Cell: Ex. 6 Personal Privacy (PP)

From: Peter Jon Shuler <PShuler@KQED.org>
Sent: Thursday, October 03, 2019 3:28 PM
To: Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: RE: KQED Request

Good afternoon,

Now that the Notice of Violation to San Francisco has gone, what are the next steps in the process? How does this play out?

Please let me know today.

Thank you,
Peter

Peter Jon Shuler
Reporter
KQED News
mobile Ex. 6 Personal Privacy (PP)
pshuler@kqed.org
[Facebook.com/KQEDnews](https://www.facebook.com/KQEDnews)
[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)

From: Jones, Enesta <Jones.Enesta@epa.gov>
Sent: Thursday, September 19, 2019 11:25 AM
To: Peter Jon Shuler <PShuler@KQED.org>
Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: Fwd: KQED Request

Hi Peter,

Please see our response below.

“EPA does not comment on potential enforcement actions.” – EPA spokesperson

From: "Calvino, Maria Soledad" <Calvino.Maria@epa.gov>
Date: September 19, 2019 at 2:10:24 PM EDT
To: Peter Jon Shuler <PShuler@KQED.org>
Cc: Press <Press@epa.gov>
Subject: RE: KQED Request

Hi Peter,
Yes, I'm Cc'ing our HQ office here on this email. They will reply to your request.
Thank you,

Soledad Calvino
Press Officer | Office of Public Affairs
U.S. Environmental Protection Agency | Region 9
calvino.maria@epa.gov
Office 415.972.3512 | Mobile Ex. 6 Personal Privacy (PP)

From: Peter Jon Shuler <PShuler@KQED.org>
Sent: Thursday, September 19, 2019 11:04 AM
To: Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: KQED Request

Hi Soledad,

I am trying to arrange an interview or get a statement regarding President Trump's remarks that the EPA will be "putting out a notice" of violations in San Francisco related to the city's homeless problem. He said that a tremendous amount of waste, including needles, goes through storm drains into the ocean:

<https://www.sfchronicle.com/bayarea/article/Trump-threatens-to-cite-San-Francisco-says-city-14451275.php>

<https://www.nytimes.com/2019/09/18/us/politics/trump-san-francisco-homeless.html?action=click&module=Top%20Stories&pgtype=Homepage>

I'm not looking for a typical reaction story, but trying to dig into the facts of the matter. Is there any evidence of needles and other hazardous waste flowing into the Bay and Ocean to back up his statements? If the EPA has evidence or data to back this up, that would be significant news and we would be happy to report it. I believe it's only ethically appropriate to give the EPA an opportunity to provide substance to the President's comments.

But I am interested in reporting facts, not opinions.

Can you help?

Is there someone at the main EPA press office I should be reaching out to?

Please let me know.

Thanks,
Peter

Peter Jon Shuler

Reporter

KQED News

mobile: Ex. 6 Personal Privacy (PP)

pshuler@kqed.org

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[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)

Message

From: Labbe, Ken [Labbe.Ken@epa.gov]
Sent: 10/3/2019 7:29:46 PM
To: Press [Press@epa.gov]
Subject: FW: KQED Request

Will check with OECA

Kenneth T. Labbe
United States Environmental Protection Agency
Office of Public Affairs
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460
Office: 202-564-1486
Cell: Ex. 6 Personal Privacy (PP)

From: Peter Jon Shuler <PShuler@KQED.org>
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To: Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
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Now that the Notice of Violation to San Francisco has gone, what are the next steps in the process? How does this play out?

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Peter Jon Shuler
Reporter
KQED News
mobile: Ex. 6 Personal Privacy (PP)
pshuler@kqed.org
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[Twitter.com/KQEDnews](https://twitter.com/KQEDnews)

From: Jones, Enesta <Jones.Enesta@epa.gov>
Sent: Thursday, September 19, 2019 11:25 AM
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Cc: Press <Press@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>
Subject: Fwd: KQED Request

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“EPA does not comment on potential enforcement actions.” – EPA spokesperson

From: "Calvino, Maria Soledad" <Calvino.Maria@epa.gov>
Date: September 19, 2019 at 2:10:24 PM EDT
To: Peter Jon Shuler <PShuler@KQED.org>
Cc: Press <Press@epa.gov>
Subject: RE: KQED Request

Hi Peter,
Yes, I'm Cc'ing our HQ office here on this email. They will reply to your request.
Thank you,

Soledad Calvino
Press Officer | Office of Public Affairs
U.S. Environmental Protection Agency | Region 9
calvino.maria@epa.gov
Office 415.972.3512 | Mobile Ex. 6 Personal Privacy (PP)

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To: Calvino, Maria Soledad <Calvino.Maria@epa.gov>
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<https://www.nytimes.com/2019/09/18/us/politics/trump-san-francisco-homeless.html?action=click&module=Top%20Stories&pgtype=Homepage>

I'm not looking for a typical reaction story, but trying to dig into the facts of the matter. Is there any evidence of needles and other hazardous waste flowing into the Bay and Ocean to back up his statements? If the EPA has evidence or data to back this up, that would be significant news and we would be happy to report it. I believe it's only ethically appropriate to give the EPA an opportunity to provide substance to the President's comments.

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Please let me know.

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Peter

Peter Jon Shuler

Reporter

KQED News

mobile: [Ex. 6 Personal Privacy (PP)]

pshuler@kqed.org

Facebook.com/KQEDnews

Twitter.com/KQEDnews

Message

From: Schiermeyer, Corry [schiermeyer.corry@epa.gov]
Sent: 9/26/2019 4:09:49 PM
To: jc.rodriguez@law360.com; Press [Press@epa.gov]; Block, Molly [block.molly@epa.gov]
Subject: RE: EPA warning letters

Information at these links should be helpful:

Bacteria TMDL and studies on sources of bacteria including homeless

encampments: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/SFbaybeachesbacteria.html

Actual

TMDL: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaybeachesbacteria/BPA%20to%20Establish%20TMDL%20and%20Implementation%20Plans%20for%20Bacteria%20at%20San%20Francisco%20Bay%20Beaches.pdf

From: jc.rodriguez@law360.com <jc.rodriguez@law360.com>
Sent: Thursday, September 26, 2019 11:47 AM
To: Press <Press@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: Re: EPA warning letters

And one follow up question, the letter makes reference to EPA's "concern" about the amount of human feces that ends up in the Los Angeles and San Francisco sewer systems. How does the EPA know exactly how much human feces is ending up in "nearby water" and whether that amount poses a health risk?

On Thu, Sep 26, 2019 at 11:06 AM Juan Carlos Rodriguez <jc.rodriguez@law360.com> wrote:

Hi,

I was on the call with Susan Bodine this morning, and I'd like to request information about how many of these types of letters have been sent from the EPA (either HQ or regional offices) to states about similar issues. The Washington Post reported one issued by the Obama administration to Wisconsin, but are there others?

Thank you.

--

Juan Carlos Rodriguez
Senior Environment Reporter



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Cell: Ex. 6 Personal Privacy (PP)



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Juan Carlos Rodriguez
Senior Environment Reporter

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New York, NY 10011
Office: 646-783-7197
Cell: [REDACTED]

Ex. 6 Personal Privacy (PP)



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Message

From: Hackel, Angela [Hackel.Angela@epa.gov]
Sent: 9/26/2019 4:04:04 PM
To: jc.rodriguez@law360.com; Press [Press@epa.gov]; Block, Molly [block.molly@epa.gov]
Subject: RE: EPA warning letters

Hi Juan,

I am working on this for you. Can you please let me know your deadline?

Thanks,

Angela

From: jc.rodriguez@law360.com <jc.rodriguez@law360.com>
Sent: Thursday, September 26, 2019 11:47 AM
To: Press <Press@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: Re: EPA warning letters

And one follow up question, the letter makes reference to EPA's "concern" about the amount of human feces that ends up in the Los Angeles and San Francisco sewer systems. How does the EPA know exactly how much human feces is ending up in "nearby water" and whether that amount poses a health risk?

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Message

From: jc.rodriguez@law360.com [jc.rodriguez@law360.com]
Sent: 9/26/2019 3:47:28 PM
To: Press [Press@epa.gov]; Block, Molly [block.molly@epa.gov]
Subject: Re: EPA warning letters

And one follow up question, the letter makes reference to EPA's "concern" about the amount of human feces that ends up in the Los Angeles and San Francisco sewer systems. How does the EPA know exactly how much human feces is ending up in "nearby water" and whether that amount poses a health risk?

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Juan Carlos Rodriguez
Senior Environment Reporter



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Message

From: Schiermeyer, Corry [schiermeyer.corry@epa.gov]
Sent: 9/26/2019 7:37:27 PM
To: Hackel, Angela [Hackel.Angela@epa.gov]; jc.rodriguez@law360.com
CC: Press [Press@epa.gov]; Block, Molly [block.molly@epa.gov]
Subject: RE: EPA warning letters
Attachments: 75 Issues.pdf

Please also see the attached oversight letter that was sent to WI in 2011. This is similar to the action we took today w/ CA.

Also, Susan mentioned that with most areas that have similar issues, they are already working with EPA to come into compliance. San Francisco has yet to admit they have failures to address, that is how they are different than many other cities that may also be having water challenges.

Other cities with CSO issues, and list of consent decrees: <https://www.epa.gov/enforcement/national-compliance-initiative-keeping-raw-sewage-and-contaminated-stormwater-out-our>

From: Hackel, Angela <Hackel.Angela@epa.gov>
Sent: Thursday, September 26, 2019 3:30 PM
To: jc.rodriguez@law360.com; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: Press <Press@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: RE: EPA warning letters

Hi Juan,

Please see our response to your inquiry below.

Attributable to an EPA Spokesperson

Q: How does the EPA know exactly how much human feces is ending up in "nearby water" and whether that amount poses a health risk?

A: EPA conducts oversight over state programs routinely. Dischargers are supposed to monitor for compliance with water quality standards including bacteria standards.

Thanks,

Angela

From: jc.rodriguez@law360.com <jc.rodriguez@law360.com>
Sent: Thursday, September 26, 2019 12:34 PM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: Press <Press@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: Re: EPA warning letters

My deadline is 6 p.m. EDT today. Thanks.

On Thu, Sep 26, 2019 at 12:09 PM Schiermeyer, Corry <schiermeyer.corry@epa.gov> wrote:

Information at these links should be helpful:

Bacteria TMDL and studies on sources of bacteria including homeless

encampments: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/SFbaybeachesbacteria.html

Actual

TMDL: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaybeachesbacteria/BPA%20to%20Establish%20TMDL%20and%20Implementation%20Plans%20for%20Bacteria%20at%20San%20Francisco%20Bay%20Beaches.pdf

From: jc.rodriguez@law360.com <jc.rodriguez@law360.com>

Sent: Thursday, September 26, 2019 11:47 AM

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Juan Carlos Rodriguez
Senior Environment Reporter



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Senior Environment Reporter



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Office:

Cell:



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Message

From: Block, Molly [block.molly@epa.gov]
Sent: 9/26/2019 7:27:05 PM
To: Hackel, Angela [Hackel.Angela@epa.gov]
CC: Press [Press@epa.gov]
Subject: Re: For Review: EPA warning letters

Ok

Sent from my iPhone

On Sep 26, 2019, at 3:23 PM, Hackel, Angela <Hackel.Angela@epa.gov> wrote:

OW/OECA approved the below.

Okay to send:

Attributable to an EPA Spokesperson

Q: How does the EPA know exactly how much human feces is ending up in "nearby water" and whether that amount poses a health risk?

A: EPA conducts oversight over state programs routinely. Dischargers are supposed to monitor for compliance with water quality standards including bacteria standards.

From: jc.rodriguez@law360.com <jc.rodriguez@law360.com>
Sent: Thursday, September 26, 2019 12:34 PM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: Press <Press@epa.gov>; Block, Molly <block.molly@epa.gov>
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Actual

TMDL: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaybeachesbacteria/BPA%20to%20Establish%20TMDL%20and%20Implementation%20Plans%20for%20Bacteria%20at%20San%20Francisco%20Bay%20Beaches.pdf

From: jc.rodriguez@law360.com <jc.rodriguez@law360.com>
Sent: Thursday, September 26, 2019 11:47 AM
To: Press <Press@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: Re: EPA warning letters

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Thank you.

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Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 9/26/2019 1:14:54 PM
To: Dennis, Allison [Dennis.Allison@epa.gov]
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]
Subject: Fwd: Cal Letter and Press Release
Attachments: image2019-09-25-035805.pdf; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Schiermeyer, Corry" <schiermeyer.corry@epa.gov>
Date: September 25, 2019 at 3:48:07 PM EDT
To: "Grantham, Nancy" <Grantham.Nancy@epa.gov>
Cc: "Abboud, Michael" <abboud.michael@epa.gov>, "Block, Molly" <block.molly@epa.gov>, "McFaul, Jessica" <mcfaul.jessica@epa.gov>, "Beach, Christopher" <beach.christopher@epa.gov>, "Woods, Andrea" <Woods.Andrea@epa.gov>
Subject: FW: Cal Letter and Press Release

We need to have this posted to the website at 10:30amET tomorrow.

-----Original Message-----

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Wednesday, September 25, 2019 3:33 PM
To: Ross, David P <ross.davidp@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>; McFaul, Jessica <mcfaul.jessica@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Block, Molly <block.molly@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Subject: RE: Cal Letter and Press Release

Attached is the final, signed letter.

-----Original Message-----

From: Ross, David P <ross.davidp@epa.gov>
Sent: Wednesday, September 25, 2019 10:04 AM
To: Benevento, Douglas <benevento.douglas@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Subject: Re: Cal Letter and Press Release

FYI. I have worked with Susan to give this a comprehensive review and clean up edit. Mel, Lee and I just reviewed those edits, and Mel will be putting this into a final version to pass on to the AO shortly.

Thanks all.

Sent from my iPad

On Sep 24, 2019, at 10:54 PM, Benevento, Douglas
<benevento.douglas@epa.gov> wrote:

Dave, this is the letter you were cc'd on, it should look familiar. If you're going to make changes this is the one you should work off of.

Get it to Beth White who can put it on letterhead and get it turned around by noon.

Corry, if I understood you correctly the Washington Post is now the outlet we're working with and they will receive the letter at noon tomorrow and embargo it until Thursday morning.

-----Original Message-----

From: Ross, David P <ross.davidp@epa.gov>

Sent: Tuesday, September 24, 2019 10:24 PM

To: Bodine, Susan <bodine.susan@epa.gov>; Jackson, Ryan
<jackson.ryan@epa.gov>

Cc: Benevento, Douglas <benevento.douglas@epa.gov>; Forsgren, Lee
<Forsgren.Lee@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>

Subject: Re: Cal Letter and Press Release

Could somebody please get me what they think is the final version of the letter first thing in the morning and I will fix it. Who has the final electronic version?

Sent from my iPad

On Sep 24, 2019, at 8:25 PM, Bodine, Susan
<bodine.susan@epa.gov> wrote:

Attached are my edits to the TPs. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

I need a copy of the signed letter before I talk to press.

-----Original Message-----

From: Benevento, Douglas <benevento.douglas@epa.gov>

Sent: Tuesday, September 24, 2019 7:24 PM

To: Forsgren, Lee <Forsgren.Lee@epa.gov>

Cc: Ross, David P <ross.davidp@epa.gov>; Bodine, Susan
<bodine.susan@epa.gov>; Mejias, Melissa
<mejias.melissa@epa.gov>

Subject: Re: Cal Letter and Press Release

Ryan has a final going out at noon tomorrow. I've told him we may substitute out the one in he has. Dave if you can get it to him before noon that will work.

Sent from my iPhone

On Sep 24, 2019, at 4:17 PM, Forsgren, Lee
<Forsgren.Lee@epa.gov> wrote:

Doug

I am in Chicago enroute to Seattle. So I have no ability to change the letter and get it to a Ryan. Melissa has the ability to make those changes but will leave whether we can do it to Dave.

Lee

Sent from my iPhone

On Sep 24, 2019, at 5:46 PM,
Benevento, Douglas
<benevento.douglas@epa.gov>
wrote:

Lee if we change the letter you're going to have to revise it and get a new signed copy to Ryan, I'm in Seattle and he's holding the final version for delivery. The letter should go to Beth White. The letter is going out very early Thursday morning. Make sure the old copy is destroyed.

-----Original Message-----

From: Ross, David P
<ross.davidp@epa.gov>

Sent: Tuesday, September 24, 2019
2:22 PM

To: Benevento, Douglas
<benevento.douglas@epa.gov>;
Bodine, Susan
<bodine.susan@epa.gov>; Forsgren,
Lee <Forsgren.Lee@epa.gov>

Cc: Mejias, Melissa
<mejias.melissa@epa.gov>

Subject: Cal Letter and Press Release

Deliberative; Pre-Decisional

On the latest version of the Cal water letter, I agree with Susan's redlines. A few other nits:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

I'm turning my attention to the TPs
now.

Sent from my iPad

<Water TPs spb edits.docx>

<California Water Letter - Final - September, 2019.docx>

Message

From: Sawyers, Andrew [Sawyers.Andrew@epa.gov]
Sent: 9/26/2019 6:38:28 PM
To: Gutierrez, Sally [Gutierrez.Sally@epa.gov]; Kloss, Christopher [Kloss.Christopher@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure
Attachments: 9.26.19_letter-epa.pdf

FYI

From: Wehling, Carrie <Wehling.Carrie@epa.gov>
Sent: Thursday, September 26, 2019 1:59 PM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Thompkins, Anita <Thompkins.Anita@epa.gov>; McClain, Jennifer <McClain.Jennifer@epa.gov>
Cc: Darman, Leslie <Darman.Leslie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure

FYI in case you hadn't seen. Possible state program actions highlighted, both NPDES and PWS.
Copying WLO state program leads, and RC R9.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Sent: Thursday, September 26, 2019 1:05 PM
To: OGC WLO <OGC_WLO@epa.gov>
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure

For your awareness. I was not previously aware of this.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Thursday, September 26, 2019 12:07 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure

FYSA

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: EPA Press Office <press@epa.gov>
Sent: Thursday, September 26, 2019 10:30 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: EPA Administrator Wheeler calls out California's Environmental Protection Failure



U.S. ENVIRONMENTAL PROTECTION AGENCY
NEWS RELEASE
WWW.EPA.GOV/NEWSROOM

EPA Administrator Wheeler calls out California's Environmental Protection Failure

State's homelessness crisis threatens human health and the environment

WASHINGTON (Sept. 26, 2019) — Today, U.S. Environmental Protection Agency (EPA) Administrator Andrew Wheeler sent a letter to California Governor Gavin Newsom raising several issues with the state's failure to protect Californians from degraded water, outlining deficiencies that have led to significant public health concerns in California and the steps the state must take to address them.

"California needs to fulfill its obligation to protect its water bodies and, more importantly, public health, and it should take this letter as notice that EPA is going to insist that it meets its environmental obligations," **said EPA Administrator Andrew Wheeler**. "If California does not step up to its delegated responsibilities, then EPA will be forced to take action."

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resulted in the subsequent need for more direct EPA oversight to ensure human health and environmental protection.

Administrator Wheeler also raised concerns about the state's years long approval of the discharges of over 1 billion gallons per year of combined sewage and stormwater into San Francisco Bay and the Pacific Ocean. Despite California having abundant financial resources - which includes a significant tax base and EPA providing over \$1 billion in federal grants and a \$699 million loan through the Water Infrastructure Finance and Innovation Act - San Francisco has not come into compliance with federal clean water standards and must still invest billions of additional dollars to modernize its sewer system.

California has 30 days to provide a written response to EPA outlining in detail how it intends to address the concerns and deficiencies identified in the letter.

To read the full letter, click [here](#).

For more information about EPA's clean water programs, click [here](#).

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Newsroom



U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004



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Delivery Report

From: Miller, Amy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=40BB39F199A74C5CB3956D35D6F468DF-AMILLE06]
Sent: 9/20/2019 4:02:24 PM
To: Maier, Brent [Maier.Brent@epa.gov]
Subject: Read: FYI - Aquaforonia News: Experts blast Trump's claims of needles in San Francisco Bay, Pacific Ocean

Your message

To: Miller, Amy; Quast, Sylvia
CC: Calvino, Maria Soledad; PerezSullivan, Margot; Glenn, William
Subject: FYI - Aquaforonia News: Experts blast Trump's claims of needles in San Francisco Bay, Pacific Ocean
Sent: 9/20/2019 4:02:00 PM

was read 9/20/2019
on 4:02:24
PM

Message

From: Miller, Amy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=40BB39F199A74C5CB3956D35D6F468DF-AMILLE06]
Sent: 8/26/2019 7:30:42 PM
To: Sylvia Quast (Quast.Sylvia@epa.gov) [Quast.Sylvia@epa.gov]
Subject: FW: SFPUC and R9 Municipal Case Summary
Attachments: CWA Muni Case summary.xlsx; Briefing for Amy and RA on August 27 2019.docx

What do you think about sharing this with Mike?

Amy C. Miller
Director, Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
(415) 947-4198
miller.amy@epa.gov

From: Magnan, Eric <Magnan.Eric@epa.gov>
Sent: Monday, August 26, 2019 11:04 AM
To: Quast, Sylvia <Quast.Sylvia@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>
Cc: Berg, Elizabeth <Berg.Elizabeth@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>
Subject: SFPUC and R9 Municipal Case Summary

Amy and Sylvia,

Thanne and I put together two documents to help inform your briefing with the RA tomorrow:

1. A spreadsheet summarizing large CWA Municipal cases taken in Region 9 with dates, size of injunctive relief, and brief description of the work to help give you more information on timeframe and scale of these cases.
2. A word document summarizing current status of the case, with additional focus on prior state actions and an inspection history.

I'll drop off hard copy versions in a few moments. Let me know if you have any questions or need any additional information.

Thanks,

Eric

Eric Magnan, P.E.
Manager, Water Section I
Enforcement and Compliance Assurance Division
U.S. EPA Region 9
75 Hawthorne Street, ENF-3-1
San Francisco, CA 94105
415.947.4179
magnan.eric@epa.gov

Delivery Report

From: PerezSullivan, Margot [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6659D7F0435B465184ED9736F0FDBC7A-MPEREVSU]
Sent: 9/20/2019 4:10:49 PM
To: Maier, Brent
Subject: Read: FYI - Aquaforntia News: Experts blast Trump's claims of needles in San Francisco Bay, Pacific Ocean

Your message

To: Miller, Amy; Quast, Sylvia
CC: Calvino, Maria Soledad; PerezSullivan, Margot; Glenn, William
Subject: FYI - Aquaforntia News: Experts blast Trump's claims of needles in San Francisco Bay, Pacific Ocean
Sent: 9/20/2019 4:02:00 PM

was read 9/20/2019
on 4:10:49
PM

Message

From: Sawyers.Andrew@epa.gov [Sawyers.Andrew@epa.gov]
Sent: 9/26/2019 7:36:00 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]; Stein, Raffael [Stein.Raffael@epa.gov]
Subject: Fwd: EPA Administrator Wheeler calls out California's Environmental Protection Failure
Attachments: image001.png; ATT00001.htm; 9.26.19_letter-epa.pdf; ATT00002.htm

FYI

Sent from my iPhone

Begin forwarded message:

From: "Wehling, Carrie" <Wehling.Carrie@epa.gov>
Date: September 26, 2019 at 1:58:40 PM EDT
To: "Sawyers, Andrew" <Sawyers.Andrew@epa.gov>, "Thompkins, Anita" <Thompkins.Anita@epa.gov>, "Mclain, Jennifer" <Mclain.Jennifer@epa.gov>
Cc: "Darman, Leslie" <Darman.Leslie@epa.gov>, "Nalven, Heidi" <Nalven.Heidi@epa.gov>, "Quast, Sylvia" <Quast.Sylvia@epa.gov>
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure

FYI in case you hadn't seen. Possible state program actions highlighted, both NPDES and PWS.
Copying WLO state program leads, and RC R9.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Sent: Thursday, September 26, 2019 1:05 PM
To: OGC WLO <OGC_WLO@epa.gov>
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure

For your awareness. I was not previously aware of this.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Thursday, September 26, 2019 12:07 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure

FYSA

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: EPA Press Office <press@epa.gov>

Sent: Thursday, September 26, 2019 10:30 AM

To: Fotouhi, David <Fotouhi.David@epa.gov>

Subject: EPA Administrator Wheeler calls out California's Environmental Protection Failure



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For more information about EPA's clean water programs, click [here](#).

.....

<!--[if !vml]-->

Message

From: Sawyers.Andrew@epa.gov [Sawyers.Andrew@epa.gov]
Sent: 9/26/2019 6:46:52 PM
To: Farris, Erika D. [Farris.Erika@epa.gov]; Sylvester, Francis [Sylvester.Francis@epa.gov]
Subject: Fwd: EPA Administrator Wheeler calls out California's Environmental Protection Failure
Attachments: image001.png; ATT00001.htm; 9.26.19_letter-epa.pdf; ATT00002.htm

FYI

Sent from my iPhone

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Associate General Counsel for Water
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1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Thursday, September 26, 2019 12:07 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: FW: EPA Administrator Wheeler calls out California's Environmental Protection Failure

FYSA

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: EPA Press Office <press@epa.gov>

Sent: Thursday, September 26, 2019 10:30 AM

To: Fotouhi, David <Fotouhi.David@epa.gov>

Subject: EPA Administrator Wheeler calls out California's Environmental Protection Failure



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<!--[if !vml]-->

Message

From: Shimkin, Martha [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=179C76DD15584E87AF889201656C9F9F-SHIMKIN, MARTHA]
Sent: 8/12/2019 1:43:30 PM
To: Sylvester, Francis [Sylvester.Francis@epa.gov]
Subject: FW: IMPORTANT -- need response by tomorrow afternoon

In case I did not share – we decided to hold this until Monday. Sally has the lead for it. I think. I'll double-check with her.

Martha Shimkin
Acting Deputy Director
Office of Wastewater Management
(202) 564-1573

From: Shimkin, Martha
Sent: Thursday, August 08, 2019 3:26 PM
To: Sylvester, Francis <Sylvester.Francis@epa.gov>
Subject: Re: IMPORTANT -- need response by tomorrow afternoon

Excellent. I want to take a little more time to read it but I can send later today or tomorrow. I will mention that I have a list of the cities but not share unless requested

Thanks for this.

Sent from my iPhone

On Aug 8, 2019, at 2:43 PM, Sylvester, Francis <Sylvester.Francis@epa.gov> wrote:

Here is the list, courtesy of Jackie Clark, if needed at any point in time.

Frank Sylvester
U.S. Environmental Protection Agency
Office of Wastewater Management
Desk: (202) 564-1279
Mobile: Ex. 6 Personal Privacy (PP)
sylvester.francis@epa.gov

From: Shimkin, Martha <Shimkin.Martha@epa.gov>
Sent: Thursday, August 08, 2019 1:59 PM
To: Sylvester, Francis <Sylvester.Francis@epa.gov>
Subject: Re: IMPORTANT -- need response by tomorrow afternoon

I could just say that we have access to them if wanted.

Sent from my iPhone

On Aug 8, 2019, at 1:55 PM, Sylvester, Francis <Sylvester.Francis@epa.gov> wrote:

I think we could, yes. Do you want them first or do you want to send what we have now and follow up (and I can work concurrently with WPD to pull out those cities into a list)?

Frank Sylvester

U.S. Environmental Protection Agency
Office of Wastewater Management
Desk: (202) 564-1279
Mobile: Ex. 6 Personal Privacy (PP)
sylvester.francis@epa.gov

From: Shimkin, Martha <Shimkin.Martha@epa.gov>
Sent: Thursday, August 08, 2019 1:54 PM
To: Sylvester, Francis <Sylvester.Francis@epa.gov>
Subject: Re: IMPORTANT -- need response by tomorrow afternoon

Do you know if we can get the names of cities or towns for number 3. ?

Sent from my iPhone

On Aug 8, 2019, at 1:47 PM, Sylvester, Francis <Sylvester.Francis@epa.gov> wrote:

Martha,

Attached is a set of answers from WPD for your review before passing along to Lee.

Below is the text from the attachment:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Frank Sylvester
U.S. Environmental Protection Agency
Office of Wastewater Management
Desk: (202) 564-1279
Mobile: Ex. 6 Personal Privacy (PP)
sylvester.francis@epa.gov

From: Shimkin, Martha <Shimkin.Martha@epa.gov>
Sent: Wednesday, August 07, 2019 10:04 AM
To: Sylvester, Francis <Sylvester.Francis@epa.gov>; Farris, Erika D. <Farris.Erika@epa.gov>
Subject: RE: IMPORTANT -- need response by tomorrow afternoon

Thanks. If they need to connect with the region, just let me know and I'll talk with Lee.

Martha Shimkin
Acting Deputy Director
Office of Wastewater Management
(202) 564-1573

From: Sylvester, Francis <Sylvester.Francis@epa.gov>
Sent: Wednesday, August 07, 2019 9:54 AM
To: Shimkin, Martha <Shimkin.Martha@epa.gov>; Farris, Erika D. <Farris.Erika@epa.gov>
Subject: RE: IMPORTANT -- need response by tomorrow afternoon

These seem fine but we don't think we'll have all the answers. I can direct WPD to connect with Enforcement. Sending along momentarily...

Frank Sylvester
U.S. Environmental Protection Agency
Office of Wastewater Management
Desk: (202) 564-1279
Mobile: Ex. 6 Personal Privacy (PP)
sylvester.francis@epa.gov

From: Shimkin, Martha <Shimkin.Martha@epa.gov>
Sent: Wednesday, August 07, 2019 9:49 AM

To: Sylvester, Francis <Sylvester.Francis@epa.gov>; Farris, Erika D. <Farris.Erika@epa.gov>

Subject: IMPORTANT -- need response by tomorrow afternoon

Can one of you work with WPD to pull together answers I response to an Administrator question on CA and compliance? The questions below are what Lee asked. Take a look before sending to WPD to make sure they make sense? We may be able to provide better clarity in the questions.

The Administrator was asked by CA Congressional delegation, about CSO/SSOs out of compliance. Lee Forsgren asked OWM to provide a response on the following questions. He asked for this by tomorrow afternoon and that **Ex. 5 Deliberative Process (DP)** Let me know if that is an issue. If we intend to **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

- 1.
2. **Ex. 5 Deliberative Process (DP)**
- 3.
- 4.

This is a request for high-level response that will be used to discuss with the Administrator or share with the Administrator.

Let me know if you have questions.

Thanks.

Martha Shimkin
Acting Deputy Director
Office of Wastewater Management
(202) 564-1573

<California Compliance Questions.docx>

<CA 4952 Current Compliance Status SNC Only.xlsx>

Message

From: Francisco Da Costa [Ex. 6 Personal Privacy (PP)]
Sent: 10/7/2019 3:56:10 PM
To: Francisco DaCosta [Ex. 6 Personal Privacy (PP)]
Subject: The EPA Administrator sent us a letter pointing to us tax payers - the nefarious and lethargic - ways of the SF Public Utilities Commission.
Attachments: SFPUCReplyHarlan.pdf

The Environmental Protection Agency sent Harlan Kelly from the General Manager of the SF Public Utilities Commission - pointing out to him and his minions - the many nefarious and dysfunctional methods, ploys, machinations, and shenanigans the SF Public Utilities Commission has been involved in for decades.

Not once has a hearing being held in the Bayview Hunterspoint area to discuss the foul smell coming from the Phelps Raw Sewage Treatment Plant - adversely affecting a 3 mile radius.

This community has thrown asunder and the suffering of our infants, children, youth, young adults, our beloved Elders, those with compromised health - more our mentally and physically challenges - have reached saturation point - thousand have died slowly since the early 1960s - adversely impacted by the Phelps Raw Sewage Treatment Plant.

There is a God and God sees it all. Not this morons who have NO heart - and are right now wasting millions of dollars - Community Benefits - the two crooks heading the shenanigans - Juliet Ellis and Dwayne Jones.

Not once have we had a hearing on the depilated WEIRS - they hold the secondary effluents - and then release a certain amount into the Bay. Right now the WEIRS are totally cracked - huge pieces of concrete falling into the Bay.

It is a fact that raw sewage is dumped by Islia Creek - one can smell the " excreta ". It is different from the pungent, Sulphur smell - and Harlan Kelly has the audacity to have some attorney write a letter to cover his ass - and send it to the Environmental Protection Agency.

His sidekick should have addressed the EPA but cannot - all Juliet Ellis does is wheel and deal.

She must be fired.

She is the Assistant General Manager of External Affairs - and has given herself a special title - Chief strategist.

The brand new digesters part of the \$6 billion Sewer System Improvement Project (SSIP) - has been delayed by over 2 years - experts now predict the total cost of the SSIP - will exceed \$12 Billion - Go Figure!

Why does not the SFPUC post all the NOTICE OF VIOLATIONS on their website?

Why have we NOT heard the Computer totally shutting down for three days - at the Oceanside Raw Sewage Treatment Plant.

Why have so many good people left in recent years - [Ex. 6 Personal Privacy (PP)]
the list is long - but the proof is there - that something stinks in Denmark.

When cornered instead of apologizing - ratifying the situation at hand - the SF PUC sends out a long letter that says something about nothing at all.

Thousands of our Elders, infants, children, youth,, young adults, those with compromised health - more our mentally and physically challenged continue to slowly die - and. here we have a General Manage who makes \$400,000 a year - and others unfit making over \$275,000 a year - plus benefits - treating the entire community - more decent, hardworking tax payers - with utter disdain.

Time for the Federal Bureau of Investigation - (Environmental Department) to investigate - the EPA Administrator can facilitate this request - I am going to send this letter to the FBI - and to some City and County of San Francisco - Heads of Department.

If have here the SF Baykeepers and hundreds of other worthy environmental entities with a sound track record - that do not agree with the reply from Harlan Kelly - written by some lawyer - lying through his teeth - sent to the EPA Administrator.

Time we stick to the empirical data - the many years the Democrats have failed us - and the millions of dollars wasted by the SF Public Utilities Commission.

The crooks who dole Community Benefits - Juliet Ellis and Dwayne Jones.

Get a grip on life - and stop avoiding the facts - the SSIP project is being dragged - with umpteen changed orders.

Others - like Ex. 6 Personal Privacy (PP) are still busy fishing for opportunity at Treasure Island having made hay while the sun was shining at the project linked to the SSIP - at the Phelps Raw Sewage Treatment plant.

Attached is the long winded - full of deceiving statements - a sordid - reply to the EPA Administrator, Andrew R. Wheeler - that says something but means nothing at all.

Francisco Da Costa
Director
Environmental Justice Advocacy

Message

From: Hope, Brian [Hope.Brian@epa.gov]
Sent: 9/25/2019 4:03:33 PM
To: White, Elizabeth [white.elizabeth@epa.gov]; Moritz, Brigitte [Moritz.Brigette@epa.gov]
Subject: RE: Water
Attachments: California Water Letter - Final - September 2019.OEX Edits.9.23.19.docx

Can we please forward this to Corry and ask for edits to it? I'd rather work from our latest draft - especially since there are apparently not significant edits. Neither Brigitte nor I have time to waste re-doing work we did a couple of days ago. That letter took a long time to fix - it was a flipping mess.

-----Original Message-----

From: White, Elizabeth <white.elizabeth@epa.gov>
Sent: Wednesday, September 25, 2019 11:31 AM
To: Moritz, Brigitte <Moritz.Brigette@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Subject: FW: Water

The letter changed, of course. I don't know what part of the letter changed though.

Beth White
Director, Office of the Executive Secretariat U.S. Environmental Protection Agency
(202) 564-1781 direct
Ex. 6 Personal Privacy (PP) cell

-----Original Message-----

From: Mejias, Melissa <mejias.melissa@epa.gov>
Sent: Wednesday, September 25, 2019 10:53 AM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Block, Molly <block.molly@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>
Subject: RE: Water

Of course, please find the letter attached. The date needs to be amended.

-----Original Message-----

From: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Sent: Wednesday, September 25, 2019 10:49 AM
To: Block, Molly <block.molly@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>
Subject: RE: Water

Mel...could you send us all what you sent Beth?

-----Original Message-----

From: Block, Molly <block.molly@epa.gov>
Sent: Wednesday, September 25, 2019 10:48 AM
To: Beach, Christopher <beach.christopher@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>
Subject: RE: Water

Can you forward my way so I can get cracking on a script for susan?

-----Original Message-----

From: Beach, Christopher
Sent: Wednesday, September 25, 2019 10:06 AM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: Re: Water

I sent it home with AW last night. Trying to figure out if he looked at it yet.

Sent from my iPhone

> On Sep 25, 2019, at 8:59 AM, Schiermeyer, Corry <schiermeyer.corry@epa.gov> wrote:
>
> Do we have an updated water release with quote?
>
> Molly needs it. I will get her the final letter.
>
> Sent from my iPhone
>

>> On Sep 24, 2019, at 10:29 AM, McFaul, Jessica <mcfaul.jessica@epa.gov> wrote:
>>
>> This is the most recent version of the release that I edited and sent
>> back to Doug, based on AAW's comments below. Doug could say whether
>> AAW has seen this version. Jess
>>
>> -----Original Message-----
>> From: McFaul, Jessica
>> Sent: Monday, September 23, 2019 1:31 PM
>> To: Benevento, Douglas <benevento.douglas@epa.gov>
>> Cc: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
>> Subject: RE: Water
>>
>> Edits incorporated (plus one more from me for consideration). Looping
>> Corry for her awareness. Jess
>>
>> -----Original Message-----
>> From: Benevento, Douglas <benevento.douglas@epa.gov>
>> Sent: Monday, September 23, 2019 12:10 PM
>> To: McFaul, Jessica <mcfaul.jessica@epa.gov>
>> Subject: FW: Water
>>
>>
>> -----Original Message-----
>> From: adm15.arwheeler.email <adm15.arwheeler.email@epa.gov>
>> Sent: Monday, September 23, 2019 11:36 AM
>> To: Benevento, Douglas <benevento.douglas@epa.gov>; Jackson, Ryan
>> <jackson.ryan@epa.gov>
>> Subject: Water
>>

Ex. 5 Deliberative Process (DP)

>> Sent from my iPhone
>> <09-23-2019 - DRAFT RELEASE - Water letter to CA AAW EDITS.docx>

Message

From: White, Elizabeth [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F8AF641A6306479C9026142EF3B02BD7-WHITE, ELIZ]
Sent: 9/25/2019 3:30:47 PM
To: Moritz, Brigitte [Moritz.Brigette@epa.gov]; Hope, Brian [Hope.Brian@epa.gov]
Subject: FW: Water
Attachments: California Water Letter - Final - September 2019 spb dpr.docx; California Water Letter - Final - September 2019 spb dpr.pdf

The letter changed, of course. I don't know what part of the letter changed though.

Beth White
Director, Office of the Executive Secretariat
U.S. Environmental Protection Agency
(202) 564-1781 direct
[Ex. 6 Personal Privacy (PP)]cell

-----Original Message-----

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Sent: Wednesday, September 25, 2019 10:53 AM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Block, Molly <block.molly@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>
Subject: RE: Water

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To: Block, Molly <block.molly@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>
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Sent: Wednesday, September 25, 2019 10:48 AM
To: Beach, Christopher <beach.christopher@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>
Subject: RE: Water

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To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: McFaul, Jessica <mcfaul.jessica@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: Re: Water

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Sent from my iPhone

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>> This is the most recent version of the release that I edited and sent back to Doug, based on AAW's comments below. Doug could say whether AAW has seen this version. Jess
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>> From: McFaul, Jessica
>> Sent: Monday, September 23, 2019 1:31 PM
>> To: Benevento, Douglas <benevento.douglas@epa.gov>
>> Cc: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
>> Subject: RE: Water
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>> Edits incorporated (plus one more from me for consideration). Looping Corry for her awareness. Jess
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>> -----Original Message-----
>> From: Benevento, Douglas <benevento.douglas@epa.gov>
>> Sent: Monday, September 23, 2019 12:10 PM
>> To: McFaul, Jessica <mcfaul.jessica@epa.gov>
>> Subject: FW: Water
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>> -----Original Message-----
>> From: adm15.arwheeler.email <adm15.arwheeler.email@epa.gov>
>> Sent: Monday, September 23, 2019 11:36 AM
>> To: Benevento, Douglas <benevento.douglas@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
>> Subject: Water
>>

Ex. 5 Deliberative Process (DP)

>> Sent from my iPhone
>> <09-23-2019 - DRAFT RELEASE - Water letter to CA AAW EDITS.docx>

Message

From: Voyles, Travis [Voyles.Travis@epa.gov]
Sent: 10/29/2019 8:45:31 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Benevento, Douglas [benevento.douglas@epa.gov]; Schiermeyer, Corry [schiermeyer.corry@epa.gov]; Brazauskas, Joseph [brazauskas.joseph@epa.gov]
CC: Rodrick, Christian [rodrick.christian@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Carter, Brittany S. [carter.brittany@epa.gov]; Cory, Preston [Cory.Preston@epa.gov]; Willey, Katharine [willey.katharine@epa.gov]
Subject: RE: CA Delegation Letters
Attachments: 2019-10-25 CalEPA-EPA (CWA-SDWA).pdf

Hey Everyone—OPA just got a press inquiry about California's response to the Agency's actions and a 10/25 letter from CalEPA was referenced along with the letter from SF Water and CARB that I have previously provided.

I'm checking on this 10/25 CalEPA letter to ensure it is processed and claimed by my oversight team the same as the previous ones, but this was the first I had seen of it. I've attached a copy of it here for your reference.

Travis Voyles
(202) 564-6399

From: Voyles, Travis
Sent: Monday, October 14, 2019 5:00 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittany@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: CA Delegation Letters

Another one from last week—specifically about the SIPs from CARB/Mary Nichols.

Travis Voyles
(202) 564-6399

From: Voyles, Travis
Sent: Friday, October 11, 2019 5:47 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittany@epa.gov>
Subject: RE: CA Delegation Letters

Somehow missed this one along with the former EPA employees/EIP one—This one is also from EIP, but directed at AW.

Includes a list of 429 major sources in significant noncompliance because of either violating their discharge limits in their permits or failing to meet deadlines for complying with permit conditions or consent decrees.

Travis Voyles
(202) 564-6399

From: Forsgren, Lee <Forsgren.Lee@epa.gov>
Sent: Thursday, October 10, 2019 5:52 PM
To: Voyles, Travis <Voyles.Travis@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittany@epa.gov>
Subject: RE: CA Delegation Letters

Travis,
Had not seen the letter. Thanks for bringing it to my attention.

Regards,
Lee

From: Voyles, Travis <Voyles.Travis@epa.gov>
Sent: Thursday, October 10, 2019 5:48 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittany@epa.gov>
Subject: RE: CA Delegation Letters

Wanted to flag another letter—former EPA employees (through EIP) to the House Committee on Oversight and Reform calling for an investigation.

Travis Voyles
(202) 564-6399

From: Voyles, Travis
Sent: Thursday, October 10, 2019 1:13 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittany@epa.gov>
Subject: RE: CA Delegation Letters

Just wanted to make sure everyone saw the new incoming from Speaker Pelosi and Rep. Speier to the OIG.

Travis Voyles
(202) 564-6399

From: Voyles, Travis
Sent: Wednesday, October 9, 2019 1:20 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittany@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>
Subject: RE: CA Delegation Letters

Perfect—That works with us. Thanks Susan.

Travis Voyles
(202) 564-6399

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Wednesday, October 9, 2019 1:18 PM
To: Voyles, Travis <Voyles.Travis@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittanys@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>
Subject: RE: CA Delegation Letters

Don't control it to OECA because it will be a month before I see it again. I can work with Lee on a first draft of a response.

Susan

From: Voyles, Travis <Voyles.Travis@epa.gov>
Sent: Wednesday, October 9, 2019 11:04 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Carter, Brittany S. <carter.brittanys@epa.gov>
Subject: FW: CA Delegation Letters

Hey Susan—Just wanted to pass along these incoming letters the Agency has received over the past few weeks from the California delegation. I'm sure you've seen most of these but I just wanted to have them all in one place. OW wanted to briefly chat about the 10/7 letter today so I am going to do that, but my plan was initially to get your input on the development of a response to the 10/7 letter.

- 10/7 Letter from the California House delegation Dems (45 total) to Wheeler
- 10/3 Letter from Sens. Feinstein and Harris to EPA Office of Inspector General
- 9/27 Letter from Sen. Feinstein to EPA OIG
- 9/27 Letter from ECOS to Wheeler

Let me know if you have time to discuss or have any thoughts on OECA taking first pen for a response to the 10/7 letter.

Travis Voyles
(202) 564-6399

From: Benevento, Douglas <benevento.douglas@epa.gov>
Sent: Tuesday, October 8, 2019 9:21 PM
To: Voyles, Travis <Voyles.Travis@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: RE: CA Delegation Letters

Thanks. I'm out until next Tuesday, let's catch up then. Talk to OW and make sure Susan has a copy of these letters as well. I would like to review our responses before we send on to the Administrator.

Thanks again Travis.

From: Voyles, Travis <Voyles.Travis@epa.gov>
Sent: Tuesday, October 8, 2019 7:15 PM
To: Benevento, Douglas <benevento.douglas@epa.gov>
Cc: Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: CA Delegation Letters

Hey Doug—

Just wanted to pass along a couple of letters the Agency has received over the past few days from Members of the California delegation on air and water enforcement issues.

- 10/7 Letter from the California House delegation Dems (45 total) to Wheeler
- 10/3 Letter from Sens. Feinstein and Harris to EPA Office of Inspector General

I have a call planned tomorrow with OW to discuss the response to the 10/7 from the CA House delegation, but more than willing to sit down and discuss with you if you want.

--

Travis Voyles
Deputy Associate Administrator
Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
O: (202) 564-6399
C: Ex. 6



CalEPA
California Environmental
Protection Agency

Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

October 25, 2019

The Honorable Andrew R. Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Wheeler:

I am writing in response to your letter to Governor Newsom dated September 26, 2019, which makes several accusations concerning California's implementation of federal clean water and drinking water requirements.

In the areas you identified, California is already taking action to protect its citizens and the environment. U.S. EPA's own statistics demonstrate that California exceeds the performance of many states and is ahead of schedule in meeting U.S. EPA's compliance improvement targets—which makes the unusual decision to single out California's compliance with the federal Clean Water Act and Safe Drinking Water Act all the more extraordinary.

U.S. EPA Should Return to Cooperative Federalism

Before delving into specific issues, we reaffirm our commitment to work collaboratively with U.S. EPA on behalf of our constituents. California stands ready and willing to work with its federal partners – as we have for decades – to address the issues raised in your letter.

We urge you and your Agency to return to the principles of cooperative federalism. As your regional offices know, for decades states and the U.S. EPA have worked together to ensure local, cooperative enforcement of state and federal water laws in a way that affords the greatest protection possible to people and the environment. Your letter is a significant departure from this collaborative partnership.

And it is not just California that is troubled by the retreat from our past collaborative relationship; just after you issued your letter to California, the 50-state membership of the Environmental Council of the States observed in response that "recent communications and actions by U.S. EPA are damaging engagement [between state and federal governments] and eroding our ability to jointly protect our citizens and the environment."

The nationwide concern is not surprising; U.S. EPA has been retreating from its core commitments to clean water and safe drinking water. U.S. EPA has proposed water quality certification regulations that will dramatically curtail the states' authority to protect state waters from impacts of federally approved projects. U.S. EPA and the U.S. Army Corps of Engineers have proposed to drastically reduce the waters and wetlands protected by the federal Clean Water Act. California responded by promulgating a comprehensive wetlands policy that will protect wetlands where the federal government has abdicated its responsibility.

There are also several areas where the federal government is not fulfilling its responsibilities in California. For example, the largest source of raw sewage befouling California's beaches comes from a deficient federal facility operated by the U.S. International Boundary and Water Commission in the Tijuana River Valley. Similarly, communities in Calexico have suffered from toxic discharges entering the New River from Mexico, with little to no action from the federal government. We ask you to give immediate attention to these issues.

Moreover, the federal government has not fulfilled its responsibility to address contamination of perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA), which have been found at nearly all Department of Defense (DOD) sites in California. This contamination impacts not only the drinking water systems operated by the DOD, but also off-base drinking water wells and nearby water systems. DOD has been slow to investigate off-base and is using test methods, detection limits, and reporting levels that are not sufficiently protective of human health. DOD seems to prioritize its efforts toward on-base protection to the exclusion of nearby drinking water supplies. We ask that you work with California to investigate, monitor and, if needed, secure treatment, either on- or off-base, for water supplies contaminated with PFOS and PFOA.

I encourage U.S. EPA to recommit to its core mission to protect the environment and its history of collaboration with its state partners. None of the issues identified in your letter are unique to California, and in many states, the problems are unfortunately worse and often much worse. Collectively, the states and U.S. EPA can solve the water quality and safe drinking problems that persist nationwide. California hopes that in the future, U.S. EPA will return to being a constructive partner in protecting our citizens and the environment.

California is a Widely Recognized National Leader in Clean Water Act Compliance and Enforcement

While your letter questions California's compliance with and enforcement of the Clean Water Act generally, California is national leader in protections for water quality, with more extensive and longer extant statutory protections than the Clean Water Act provides. California enacted its Porter-Cologne Water Quality Control Act three years before the federal Clean Water Act, and many aspects of the Clean Water Act are modeled off California's lead. Moreover, the Porter-Cologne Act protects a greater variety of waters, regulates a greater range of waste, and reaches many more sources than the Clean Water

Act. California not only enforces the Clean Water Act but also enforces our own more extensive state statutory protections.

U.S. EPA's own data show California is ahead of other states and U.S. EPA in terms of compliance and enforcement. According to data from U.S. EPA's compliance and enforcement databases (ECHO), California's performance exceeds that of many states and U.S. EPA's own performance where it implements the NPDES program.¹ Indeed, a recent e-mail from U.S. EPA acknowledged that California's significant noncompliance rate is below the national average "and below the National Compliance Initiative goal of 14.7% by 2022."²

Over the last year and a half, the State Water Resources Control Board (State Water Board) has dedicated resources to meet U.S. EPA's National Compliance Initiative for reducing the number of facilities in significant noncompliance. The results have been stunning. In April 2018, the State Water Board's baseline summary identified 130 facilities in significant noncompliance for the quarter preceding the baseline. The same methodology shows 58 facilities in significant noncompliance for the third quarter 2019—a 55 percent reduction.

In asserting "the need for more formal and in-depth EPA oversight," your letter offers three examples of purported Clean Water Act violations. No example supports the assertion.

One of the examples did not even involve a Clean Water Act violation: despite an allegation that the Sanitary District Number 5 of Marin exceeded its permit limits for cyanide, the District has not had a cyanide effluent limitation violation in at least eight years. US EPA's database had misreported units, and the San Francisco Bay Water Board corrected that information before September 14, 2019 (before the final review of the quarterly noncompliance report).

In another example, your letter asserts that the city of Los Angeles exceeded its permit limit for indeno(1,2,3-cd)pyrene. However, the Los Angeles Regional Water Quality Control Board found that the violations arose not from any noncompliance with the Act but from a wildfire and dismissed the penalties. U.S. EPA did not object. More recent exceedances appear to have also been the result of wildfires, and once confirmed, the Los Angeles Regional Water Quality Control Board will dismiss those violations as well.

Finally, another example cited copper detected in stormwater discharges from the University of Southern California's marine lab on Catalina Island. There was never a threat to human health since people do not drink ocean water, plus the reported levels were well below the levels that would threaten human health even if humans were to drink ocean water. By the time of receipt of your letter, the Los Angeles Water Board had already ordered the marine lab to implement best management practices to stop the discharges and to perform a survey to identify the potential sources of copper on its lands.

¹ Data retrieved from <https://echo.epa.gov> [as of September 30, 2019].

² U.S. EPA email to State Water Board's Director of Office of Enforcement (Oct. 18, 2019).

California is a National Leader in Addressing Safe Drinking Water Challenges

Your letter's concerns about California's compliance with the Safe Drinking Water Act are equally unfounded. California recognizes a basic human right to safe, clean, affordable, and accessible drinking water. Since recognizing the right in 2013, California has undertaken numerous actions to make the right a reality. These actions include the recently enacted SB 200, which builds upon existing regulatory and funding efforts to address longstanding drinking water challenges, especially in rural and disadvantaged communities.

In addition, U.S. EPA's own data show that California is a national leader. Nationwide, U.S. EPA set a 2022 goal of reducing by 25 percent the number of community water systems out of compliance with health-based drinking water standards. While the number of systems out of compliance has increased by 5 percent nationally since then, California has achieved a 19 percent *reduction* with three more years to go before the 2022 deadline.³

California has achieved this success by focusing on the root of the problem. Small, disadvantaged communities make up the majority of water systems out of compliance in California and the nation. These small systems struggle to develop additional water sources, to provide the necessary treatment, or to maintain the system adequately. Rather than ignore this systemic problem, California has proactively moved to empower the State Water Board to order consolidation of failing and unsustainable systems with neighboring systems. More than 100 consolidations have been initiated or completed in the last couple of years, which has secured safe drinking water for more people and reduced the number of drinking water systems in California that are out of compliance.

Your letter identified several specific areas of concern about compliance with health-based drinking water requirements. Each is the subject of on-going enforcement actions that will lead to improvements and safe drinking water. For example, you claim two systems have serious violations of the Ground Water Rule, but both systems are already back in compliance. You also claim 44 systems have disinfection byproduct violations, but most systems with those types of violations are brought back into compliance within the next quarter. These episodic events occur nationwide. If the system cannot come back into compliance quickly, it may need capital improvements. Where water systems require capital improvements to address drinking water violations, California provides no- or low-interest loans through the Drinking Water State Revolving Fund or bond proceeds.

Other violations your letter cited were exceedances of arsenic and radiological standards. These compliance problems exist, and are largely caused by the inability of small water systems to support technical, managerial, and financial capacity and system operations and maintenance, which small systems simply do not have the revenue base to support. To close

³ U.S. EPA SDWIS Federal Data Warehouse, July 2019 (SY2019Q2), SFRS NPM detail report provided by U.S. EPA to State of California on October 2, 2019.

this funding gap, SB 200 created a new Safe Affordable Drinking Water Fund and established a \$130 million annual appropriation to the State Water Board to support access to safe drinking water because federal dollars cannot be used to help these communities in need.

Water Quality Issues Associated with Homelessness

Citing media reports, your letter expresses concern that homeless persons may be impacting water quality. Although homelessness is an issue we all need to work collaboratively to solve, your concern about homelessness's impact on water quality is sensationalized and, in California, misguided.

For years, the State Water Board and the nine Regional Water Quality Control Boards have been taking actions to neutralize water quality threats from homeless camps, such as cleaning up high-risk sites and implementing measures to prevent recurrence of sanitation problems. Your letter suggests that the Water Boards should use municipal stormwater permits to require local agencies to provide sanitation stations. In fact, the Water Boards already have begun doing so. (See, e.g., Central Coast Water Board Order No. R3-2019-0073 [NPDES CA0049981].) As additional municipal stormwater permits come up for renewal and where pollution from homeless encampments threaten state waters, the Water Boards will pursue conditions requiring municipalities to assess and reduce such pollution to protect human health and the environment. Although we believe that these efforts provide a national model, we welcome more support from U.S. EPA in this area. Among other things, U.S. EPA could urge the U.S. Department of Housing and Urban Development to remove restrictions on using federal funding for the sanitation needs of the homeless and update its municipal stormwater regulations with specific requirements.

The City and County of San Francisco's Combined Sewer System

Your letter also raises concerns about San Francisco's combined system for dealing with urban runoff and sewage. Such combined systems have the important advantage of treating urban runoff before it reaches California's waters. On the other hand, during extreme or persistent storms, the combined system may overflow, resulting in only partially treated sewage reaching the ocean. Your letter is wrong in suggesting that the San Francisco system's overflow during wet weather violates the Clean Water Act. As you must know, the Clean Water Act allows combined sewer systems to provide lesser treatment during wet weather when the vast majority of the waste stream is stormwater. (33 U.S.C. § 1342(q)(1)). In addition, contrary to your letter's suggestion, the Clean Water Act does not require combined sewer systems to apply biological treatment during those same conditions. (*Ibid.*) California believes in minimizing the occurrences of partial treatment, however, which is why the San Francisco Bay Water Board has been taking actions to improve San Francisco's performance.

On September 11, 2019, the San Francisco Bay Water Board adopted an updated and more stringent NPDES permit for San Francisco's oceanside discharges. U.S. EPA publicly supported

that update, which requires San Francisco to evaluate, prioritize, and propose alternatives (with an implementation schedule) to eliminate or to reduce discharges of partially treated wastewater to sensitive areas, including beaches. That permit happens to be a joint permit and U.S. EPA has failed to act on its portion of the permit. Beyond the permit update, the San Francisco Bay Water Board and U.S. EPA have been pursuing a joint enforcement action involving San Francisco's combined system. U.S. EPA recently abandoned the joint enforcement effort with California and has instead chosen to proceed unilaterally. This development is confounding, and contrary to long history of productive state-federal cooperative enforcement.

Response to U.S. EPA's Request

Although U.S. EPA's own data show that California already outperforms the national averages in core metrics on implementation and enforcement of the federal programs, California wants to work in good faith with U.S. EPA to solve the complex environmental challenges we still face. Attached to this letter is a list of actions the state is already undertaking and which are also responsive to the allegations in your September 26th letter. Using its broad authority to protect water quality and advance California's human right to water, the State Water Board is implementing each of these actions (and, indeed, has been doing so well before your letter was sent). The attachment also identifies additional dates for expected outcomes and timelines for certain actions. The actions California already has under way to address clean water for Californians include aggressive steps to:

1. Encourage applicants for water loans and grants to submit proposals that will address sanitation issues for the homeless; expand requirements in upcoming municipal stormwater renewals to address homeless encampment wastes that reach stormwater systems; and amplify successful local programs and partnership to prevent water quality impacts and address sanitation needs of the homeless.
2. Complete enforcement-related negotiations to ensure further upgrades to San Francisco's combined system.
3. Prioritize enforcement with a goal to meet U.S. EPA's national compliance initiative targets at least one year before U.S. EPA's 2022 deadline.
4. Complete data reliability and alignment issues between U.S. EPA and Water Boards' enforcement databases.
5. Realign enforcement priorities to assure additional follow-up for facilities that receive mandatory minimum penalties.
6. Implement California's Safe and Affordable Drinking Water Fund by consolidating unsustainable drinking water systems, appointing administrators, providing replacement water, and expanding opportunities to provide operation and maintenance funding to small disadvantaged community water systems.
7. Perform additional testing and to ensure drinking water in California's schools comply with applicable lead standards.
8. Remove lead fittings and service lines from community water systems.

We look forward to working with U.S. EPA on these actions. California is a leader in protecting water quality as well as the environment in general, and we have a long history of productive collaboration with both regional and national U.S. EPA staff. I urge U.S. EPA to fulfill its own obligations and to honor our long history of collaboration by recommitting to a partnership with California.

Sincerely,

A handwritten signature in black ink, appearing to read "Jared Blumenfeld", with a stylized flourish at the end.

Jared Blumenfeld
Secretary
California Environmental Protection Agency

Water Quality and Drinking Water Improvement Actions

This document details the actions that California is already taking to protect its citizens and the environment in the areas identified in Administrator Wheeler's September 26, 2019 letter and, as requested, identifies anticipated outcomes that may serve as milestones. This document also suggests ways in which U.S. EPA may support these actions.

Addressing Water Quality Issues Associated with Homelessness

Action 1: Amplify Successful Local Programs and Partnerships

As stated in Secretary Blumenfeld's response letter to Administrator Wheeler, homelessness is an issue all levels of government need to collaborate to solve. But claims about widespread water quality issues related to homelessness are unfounded and sensationalized. While the state does not stipulate that homelessness is a primary driver of water quality issues, we nevertheless are providing a substantive response detailing a number of ongoing initiatives in this arena.

The State Water Board currently provides state bond proceeds for stormwater management to local governments, and the Department of Water Resources provides bond proceeds for urban flooding mitigation. Each bond issuance is over \$90 million. Existing partnerships provide for the provision of sanitation facilities at homeless encampments, trash collection partnerships, and restoration of riparian corridors. The State Water Board will encourage future grant applicants to submit proposals that build off these existing partnerships and include provision of sanitation services and facilitation of transition to shelters and housing for homeless people living in high flood risk urban and riparian areas.

Regional water boards also are considering new stormwater permit requirements addressing provision of sanitation facilities, and the collection and disposal of medications and pet waste. The State Water Board is also developing guidance for regional water board actions.

The San Francisco Bay, Los Angeles, Santa Ana and San Diego Water Boards are currently working with larger metropolitan stakeholders to craft permit requirements addressing pollutants from homeless encampments and homeless persons. The large municipal stormwater permits are regional permits that incorporate watershed-based compliance pathways, which provide a model for permits throughout the state, including integrated regional planning, monitoring with adjacent municipalities and best-practices on human, pet and medical waste hauling and removal.

The Water Boards are also expanding their engagement with local partners (including local governments, non-governmental organizations, private sector organizations, and the public) to identify and expand successful models that address homelessness, sanitation, and water quality in a holistic manner. These expanded actions include

convening workshops, sharing best practices, measuring water quality, participating on local task forces, developing regulatory requirements, and promoting innovative use of financial assistance programs.

Workshops held by the State Water Board and the Central Coast Water Board in 2019 brought together stakeholders to discuss successful local partnerships, resource needs, and potential roles for the Water Boards. Moving forward, other Regional Boards will hold public meetings devoted to homelessness, provide information via their websites and electronic notification lists, support local governments to identify water quality outcomes, and develop metrics for tracking progress on sanitation and water quality objectives associated with homeless encampments.

Anticipated Outcomes:

- Additional funding for local programs that deliver multiple benefits of improved services to homeless individuals, improved stormwater quality, and reduction of urban flood risk
- New and expanded outreach efforts
- Development of progress metrics
- Tracking and dissemination of information regarding local initiatives to support sanitation and water quality protection in and around homeless encampments.

Requested Federal Support:

Additional resources through the AmeriCorps program to support outreach and engagement that includes sanitation and water quality objectives along with efforts to provide housing and support to keep people from becoming homeless again. A successful AmeriCorps partnership has been operating in Santa Barbara County, where volunteers, non-governmental organizations, and local governments have helped more than 1,400 people with housing.

U.S. EPA and the Federal Emergency Management Agency (FEMA) could support state efforts by identifying opportunities to leverage existing funding programs to jointly address homelessness and water quality impacts. For example, U.S. EPA could join the U.S. Interagency Council on Homelessness to better coordinate across the federal government around homelessness, sanitation, and water quality. U.S. EPA could also provide seed funding to develop more programs like those in Santa Cruz and Riverside Counties where housed and unhoused volunteers come together to clean up degraded waterways. In addition, FEMA could provide hazard mitigation funding where homeless encampments are impacting the development and use of water resources.¹

U.S. EPA needs to provide technical support for the updated municipal stormwater permits and should issue nationwide guidance about the measures municipalities must

¹ For example, **section** 1210b of the Disaster Recovery Reform Act of 2018 authorizes FEMA to provide assistance to States under its Hazard Mitigation Grant Program for water resource development projects that also fall within the authority of the United States Army Corps of Engineers (USACE). Additional funding could be particularly useful in addressing encampments along the Santa Ana River below Prado Dam, which is operated by USACE.

undertake to satisfy the federal Clean Water Action's municipal stormwater permitting standards.

San Francisco Combined System Permitting and Enforcement

Action 2: Complete Negotiations with San Francisco

The San Francisco Bay Water Board and U.S. EPA Region IX have been involved in negotiations with the City and County of San Francisco to provide upgrades to its combined sewer system. The San Francisco Bay Water Board adopted an updated, more stringent permit on September 11, 2019, and anticipates continuing enforcement discussions with a goal of completing an enforcement action that will further reduce wet weather discharges of partially treated waste and reduce sanitary sewer overflows.

Anticipated Outcomes:

The San Francisco Bay Water Board anticipates completing either a consent judgment under state law, or joining a federal consent decree, with additional system upgrades. If neither is possible, it may need to pursue either an administrative or judicial enforcement action against the City and County of San Francisco.

Requested Federal Support:

The updated oceanside permit is awaiting U.S. EPA signature, so its requirements can take effect for purposes of facilities outside the state's jurisdiction. In addition, U.S. EPA and U.S. DOJ should continue on-going negotiations with the San Francisco Bay Water Board and the City and County of San Francisco to conclude a consent decree specifying further system upgrades.

Improving Water Quality Compliance and Enforcement

Action3: Initiative to Reduce Facilities in Significant Noncompliance (SNC)

Over the last year and a half, the State Water Board's Office of Enforcement (OE) has dedicated resources to meet U.S. EPA's National Compliance Initiative for reducing the number of facilities in significant noncompliance (SNC). To improve enforcement response, the Water Boards are updating the Quarterly Noncompliance Report (QNCR) review process. The updated process includes meetings between U.S. EPA, OE, and each regional water board to review the final QNCR, prioritize enforcement cases, and both plan and implement the appropriate enforcement response. Additionally, OE created and disseminated tables to the regional water boards that outline the violation types that trigger SNC and summarize the appropriate enforcement response consistent with U.S. EPA's Enforcement Management System.

OE is also working with the Assistant Executive Officers at each regional water board to identify staff to work on reviewing QNCR and reducing SNC. The first round of reviewing the QNCR with the regional water boards is ongoing. Future QNCR reviews will be streamlined and more efficient as staff become familiar with this process.

Anticipated Outcome:

The improvements to the QNCR review process will reduce the number of facilities in SNC.

Action 4: Verification and Alignment of U.S. EPA's ICIS-NPDES Data Quality Inventory for California with Water Board Databases and Regional Water Board Enforcement Efforts

The supposed violations and discharge events cited in Administrator Wheeler's September 26, 2019 letter were identified by using U.S. EPA's ICIS-NPDES Data Quality Inventory. As California's response demonstrates, a number of these examples were erroneous, and other identified violations pose no significant threat to water quality or even merit an enforcement response. The ICIS database is also difficult to use. There are many existing data transfer issues with the ICIS database, and it is not currently possible to identify the violation that has been flagged as an instance of SNC without requiring extensive staff research to determine and prioritize the violations.

The Water Boards are working to verify and align the ICIS-NPDES Data Quality Inventory for California so that it accurately reflects information provided by permittees under NPDES self-reporting requirements. To do this, and thereby improve the utility of the ICIS-NPDES Quality Inventory, OE has been an active participant in U.S. EPA's SNC Workgroup and two of its subcommittees, the SNC Data Subcommittee and the Communications and Policy subcommittee. OE staff has taken the lead on some of the Data Subcommittee tasks and drafted resources for state and U.S. EPA regional staff to aid in investigating the reason(s) a facility is in SNC. Currently, the SNC list is not a useful management tool, because it flags violations as significant when there are not significant water quality impacts nor significant impact to the regulatory program.

Anticipated Outcome:

Improvements in the ICIS database will make the SNC list a useful management tool for California water quality enforcement measures.

Requested Federal Support:

- Dedicate additional resources to improving the ICIS-NPDES Quality Inventory database, or replace it with a modern information system.
- Revisit the definition of what qualifies as SNC to make these types of violations a more meaningful indication of threats to water quality or assessment of tNPDES regulatory program compliance.

Action 5: Identify and Elevate Facilities with Mandatory Minimum Penalty Violations that Form the Basis for SNC

California law imposes mandatory minimum penalties (MMPs) for specified violations of national pollutant discharge elimination system (NPDES) permits. Currently the Water Boards prioritize resolving MMPs within 18 months of the violations. However, when the Water Boards assess mandatory penalties for NPDES violations, which require at least a \$3,000 per violation per day penalty, U.S. EPA does not recognize the penalty alone as adequate enforcement for facilities in SNC. This can create a situation where a

Water Board has completed a prioritized enforcement action by imposing MMPs, but U.S. EPA does not regard that enforcement as sufficient to remove the SNC listing.

The Water Boards commit to conduct a review NPDES permit violations that result in a publicly owned treatment works (POTW) appearing on U.S. EPA's SNC list. That review will screen the facilities to ensure that before a Water Board resolves the MMP violations, it consider additional enforcement actions. The screening will consider whether additional enforcement, including issuance of discretionary liability and/or injunctive relief is warranted in order to correct the underlying cause of the violation(s), bring the facility back into compliance, and prevent similar violations in the future.

Anticipated Outcome:

Administrator Wheeler's letter cites 15 major POTWs in significant noncompliance and 11 non-major POTWs that are currently in significant noncompliance. By committing to the actions above, the Water Board will ensure that additional enforcement actions are conducted to bring facilities back into compliance when appropriate.

Improving Access to Safe Drinking Water

Action 6: Implementation of Safe and Affordable Drinking Water Fund

In July 2019, Governor Newsom signed SB200. This legislation created the Safe and Affordable Drinking Water Fund and provided an ongoing appropriation of \$130 million per year to fund the program. The Safe Affordable Drinking Water Fund and associated programs created by SB 200 build upon existing regulatory and funding efforts to address longstanding drinking water issues in small water systems in disadvantaged communities. Small, disadvantaged communities make up the majority of water systems out of compliance in California, and the nation. The Federal Safe Drinking Water Act and the Drinking Water State Revolving Fund are both structured to work better with large municipal water systems and provide limited funding and ineffective tools for addressing small water systems in disadvantaged communities. With SB200, and preceding state legislation, California now has both the tools and the funding to accelerate all communities' access to safe and affordable drinking water.

Specific tools and funding that the State Water Board now has at its disposal include:

- **Consolidation Authority:** The State Water Board is working with small community water systems on voluntary consolidation agreements to combine with nearby larger systems. The State Water Board has authority to force mandatory consolidations, under appropriate circumstances, where voluntary efforts are not successful.
- **Water System Administrators:** The State Water Board has the authority to name administrators to oversee small water systems who lack management and technical capacity. Administrators work with water systems to put them on a path to long term sustainability. The State Water Board also has funding available to pay for administrators.
- **Mapping and Needs Assessment:** The State Water Board has ongoing efforts to assess water system needs including financial and other capacity issues. The

State Water Board has found that new systems go out of compliance as others are returned to compliance. Therefore, it is necessary to try and identify those systems with a high risk of failure before they are out of compliance with water quality standards. The State Water Board is also working on more accurately mapping water system boundaries and on linking water quality data (groundwater and surface water) with drinking water data.

- **Technical Reporting:** The Water Board has the authority through SB200, to require technical reports from water systems that may include both technical details about the water system and technical, managerial and financial capacity of the system. This authority will enhance our ongoing enforcement efforts.
- **Operation and Maintenance:** Funding provided by the Safe Affordable Drinking Water Fund may be utilized for ongoing operations and maintenance support. For small, disadvantaged systems this is often a missing piece that limits their ability to operate appropriate treatment technologies and is largely behind why many systems have disinfection byproduct violations, but it cannot be funded through the Drinking Water State Revolving Fund or other federal funds.

In addition to the above the State Water Board is working on interim drinking water solutions for affected communities, providing a wide range of technical assistance services and working on water system regionalization (both physical and managerial).

Anticipated Outcome:

In the first year of the Safe Affordable Drinking Water program, the State Water Board has committed to accelerating consolidations, appointing administrators, supplying communities that currently lack safe drinking water with temporary supplies, and providing assistance to vulnerable water systems to plan for long term sustainable solutions. Goals for subsequent years will be developed as part of yearly Fund Expenditure Plan, which is required by SB200. The Fund Expenditure Plan will be developed through an open public process and approved by the Water Board. In addition to enumerating yearly goals, the Fund Expenditure Plan will report on metrics from the prior year and account for expenditure of all prior year funds.

Requested Federal Support:

U.S. EPA's Safe Drinking Water Information System requires significant upgrades. The system's outdated architecture confounds California's updated mapping and needs assessment efforts. In the absence of adequate federal investments, California and other states are expending significant resources to develop their data systems to provide a more accurate snapshot of safe drinking water needs.

Action 7: Test all public schools for lead

Children are the most sensitive population for the effects of lead contamination. Unfortunately, the outdated federal lead and copper rule does not provide adequate protection for testing at sites where children may be exposed to lead in drinking water. To address this, California has issued permit amendments to all water systems serving schools to require that they include testing for lead at schools as part of their sampling programs when requested by a school. The Legislature also passed AB 746, which requires public schools to seek testing from their water systems.

Anticipated Outcome:

California has just completed testing over 7,100 schools and is awaiting final results from approximately 200 public schools. Once those final results are received, the State Water Board will determine how many schools still need testing and ensure that they are tested. Only 0.86 percent of sites sampled so far exceeded the lead action level of 15 parts per billion (ppb) of lead, 4.03 percent were between 5 pb and 15 ppb, and 95.11 percent were less than 5 ppb of lead.

Action 8: Lead service line inventory and replacement

The simplest and most effective way to address lead in drinking water is to remove the possibility of contamination from lead plumbing. The use of corrosion control, as is currently required by the federal lead and copper, is prone to occasional failure when water sources change or operational failures occur, as was the case in Flint Michigan.

California is therefore pursuing the complete removal of lead from its community water systems to provide the best safeguard to its public. California state law requires all community water systems to compile an inventory of partial or total lead service lines used in their distribution systems. By July 1, 2020, all community water systems with identified lead service lines or fittings, or with service lines that are of an unknown material, will need to submit a schedule for replacing the lines.

Anticipated Outcome:

By July 1, 2020, the State Water Board will receive community water systems' schedules for replacement of all lead service lines or service lines made from unknown materials. The State Water Board will then review and assess the proposals to ensure expeditious removal of all lead sources from community drinking water systems.

Message

From: Doyle, Brett [doyle.brett@epa.gov]
Sent: 10/28/2019 4:12:52 PM
To: Schiermeyer, Corry [schiermeyer.corry@epa.gov]
CC: Benevento, Douglas [benevento.douglas@epa.gov]
Subject: Re: CA points

I can't get any of the program folks on the phone, I have no updates for SIPs right now.

Sent from my iPhone

On Oct 28, 2019, at 9:31 AM, Schiermeyer, Corry <schiermeyer.corry@epa.gov> wrote:

Hello Brett,

On CA, this is what I have...let me know what you find out on SIPs, that would be very helpful! Thank you...

California:

- Highlighting that California has the worst air quality in the nation along with other serious environmental problems is not a political issue. The Trump Administration, unlike the previous administration, will act to protect public health and the environment for all Americans.
- California's challenges with compliance with the Safe Drinking Water Act have been an ongoing concern since they were brought to my attention at the Energy & Commerce hearing back in March.
- Congresswoman Barragan raised serious concerns to me at that hearing about the drinking water in Compton, and subsequently I asked the Office of Water to look into the issue. The Congresswoman only gave me the opportunity to answer 2 "yes or no" questions, so I wasn't able to explain to her at the time that oversight of the Compton system is a program that had been delegated to the State of California under the Safe Drinking Water Act, and that therefore the State is the first line of defense.
- EPA has been reviewing several issues that were identified as a result of the follow-up to the Congresswoman's questions about the State of California's implementation of our Nation's water laws. Those issues were the basis for our September 26th letter.

San Francisco Notice of Violation:

- The Administrator's September 26 letter to Governor Newsom is an oversight letter to the State raising concerns regarding their implementation of the Clean Water Act and the Safe Drinking Water Act.
- EPA oversight of a State's program implementation and EPA oversight or enforcement actions against a regulated entity within a state are completely separate issues.
- On Wednesday, October 2, EPA notified the San Francisco Public Utilities Commission, a regulated entity, that EPA has identified violations of the City and County of San Francisco's National Pollutant Discharge Elimination System permits regulating discharges from the city's wastewater treatment plants, 36 combined sewer discharge facilities and its combined sewer system. The identified violations are based on inspections and field visits in 2015 and

2016, and additional information, such as monitoring data that was gathered after the inspection.

- **As the notice explains, the failure to properly operate and maintain the City's sewage collection and treatment facilities creates public health risks.**
- For example, lack of proper operation and maintenance has caused force main and pump station failures that have diverted substantial volumes of raw and partially-treated sewage to flow across beaches and into the San Francisco Bay and the Pacific Ocean.
- EPA expects San Francisco to share its concern for the protection of public health and surface water resources and to address its ongoing Clean Water Act violations with significant and meaningful measures to ensure a prompt return to full compliance.

CA Water Oversight Letter

- On Thursday, September 26, EPA sent a letter to Governor Newsom outlining deficiencies in the State of California's implementation of the Clean Water Act and the Safe Drinking Water Act, and how those deficiencies may be failing to protect Californians from degraded water.
- The letter outlines deficiencies in the State's oversight of the Clean Water Act and the Safe Drinking Water Act programs that have led to significant public health concerns in California and the steps the state must take to address them.
- EPA is aware of and highlighted to the state numerous recent health-based exceedances under the Safe Drinking Water Act.
- These exceedances call into question the State's commitment to protect the public and administer its SDWA programs in a manner consistent with federal requirements.
- EPA is also aware of the growing homelessness crisis developing in major California cities, including Los Angeles and San Francisco, and the homeless crisis is likely having adverse impacts on the environment.
- The EPA stands ready to assist California and CalEPA to protect the health and environment of Californians.
- In order to ensure that appropriate steps are being taken to protect the 40 million Americans living in California, EPA is asking for a remedial plan from the state detailing the steps it's taking to address the multitude of issues raised in our letter.

CA Air Oversight Letter

- Tuesday, September 24, EPA sent a letter to California Air Resources Board Chair Mary Nichols requesting the state withdrawal its backlog and unapproved State Implementation Plans, and work with EPA to develop complete approvable SIPs.
- Since the 1970s, California has failed to carry out its most basic tasks under the Clean Air Act. California has the worst air quality in the United States with 82 areas that don't attain National Ambient Air Quality Standards affecting 34 million people living in these areas, more than twice as many people than any other state in the country.
- The state of California represents a disproportionate share of the national list of backlog SIPs, roughly one-third of EPA's overall SIP backlog.
- California's total portion of the SIP backlog is more than 100 with many dating back decades. Most of these SIPs are inactive and appear to have fundamental issues related to approvability.
- In the event California fails to withdrawal these SIPs, EPA will give begin the disapproval process for individual plans which triggers statutory clocks for three things: highway funding sanctions; new source review permitting sanctions; a deadline for the issuance of a federal implementation plan for the area.
- When President Trump took office, EPA inherited 700 SIPs from the previous administration, we've taken action on over 400. Additionally, EPA has converted a FIP to SIP once a month since March 2017, and the EPA will continue to work diligently with the States to ensure they have approvable SIPs.

- EPA received an initial response from CARB and will ensure progress is being made on improving air quality in California. EPA stands ready to work with California to meet the administration's goal of clean healthy air for all Americans.

Corry Schiermeyer
Associate Administrator
Office of Public Affairs
Environmental Protection Agency
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202-564-6782